

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:04CV182-1-MU

DONTEZ LAMONT SIMUEL,

Plaintiff,

v.

PAULA SMITH, et al.,

Defendants.

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ORDER

THIS MATTER comes before the Court upon Plaintiff's Motions for Entry of Default, both filed July 20, 2005, and Defendants' Motion that Answer Be Deemed Timely Filed, filed July 26, 2005.

Plaintiff has filed two motions requesting that default judgment be entered against the Defendants because they failed to timely plead or otherwise defend. Defendants respond admitting that they inadvertently missed the deadline for answering and asking that the Answer they filed contemporaneously with their response be deemed timely filed. For good cause shown, as set forth in Defendant's Motion, the Court deems Defendants' Answer timely filed and denies Plaintiff's Motions for Entry of Default.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Motions for Entry of Default (Docs. ## 42 and 43) are **DENIED**; and

2. Defendants' Motion that Answer Be Deemed Timely Filed is **GRANTED**.

Signed: March 14, 2006

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

